

*Lee (Vol. 4)*

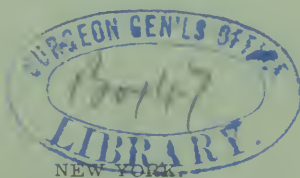
# MEDICAL OPINION

OF

✓  
CHARLES A. LEE, M. D.,

IN THE MATTER OF

CARLTON GATES, deceased.



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1870.





## OPINION OF CHARLES A. LEE, M.D.

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A definition of insanity is usually considered an essential preliminary in the decision of questions like the present, although it is generally acknowledged, that a definition applicable to all cases, is quite an impossibility. The following, however, may be deemed sufficiently accurate for all practical purposes. *Insanity is a chronic disease of the brain, producing either derangement of the intellectual faculties, or a prolonged change of the feelings, affections, and habits, or both ; its form depending on constitution, temperament and various accidental circumstances ; but, in all cases, perverting or destroying the freedom of the will.*

The following "opinion" has been deliberately and conscientiously formed, from a knowledge of the entire testimony offered in this case, all of which has been either heard or carefully read ; also, from my own intimate acquaintance of over twenty years :

I. Carlton Gates labored under confirmed insanity during the last year of his life at least, and probably for a much longer period.

II. The form of his mental disease, was, what usually goes under the name of *monomania*, that is, a perversion of the understanding limited to a single object, or a small number of objects, accompanied in the present instance, as it often is, with *moral perversion*, or disorder of the natural feelings, affections and habits.

III. A striking characteristic feature in the case, and one which was never absent during the last year of Carlton's life, was the existence of delusions on a variety of subjects, but chiefly in regard to the hostility of his parents and relatives, and to *poisoning*.

IV. The mental derangement was amply sufficient to impede and destroy the free and healthy exercise of the intellectual faculties, and the freedom of the will, so that the power of thinking and acting freely was annulled.

V. In consequence of this impairment of the mind and freedom of the will by disease, Carlton was incapable of performing a valid civil contract, as making a will ; and was also deprived of all criminal responsibility.

VI. The proof of *delusion* in the mind of the testator, is amply proved by the testimony of almost every witness in the case, especially his physicians, parents, relatives, and such servants as were allowed to be about his person, and permitted to testify. It seems remarkable, that those who were with him the most during his last illness, as the Rev. Dr. Hulbert, his housekeeper, nurse, &c., and knew best the state of his mind at that time, were not called upon the stand to testify. There is, however, abundant proof to the point without it.

VII. This deponent is not called upon to discuss the subject of *undue influence* any further than to say, that the mind of the testator was in such a diseased and perverted state, as to render him peculiarly liable to impositions and unreasonable prejudices of all kinds, especially to artful attempts to excite suspicions of his nearest and best friends, and to make him entertain a belief that the individual making such attempts was his very dear and "particular friend."

VIII. That such attempts were persistently made, and that they proved successful in the present instance, is abundantly established by various witnesses, as well as by the wording of the will itself. The *a priori* improbability of such a wicked

effort being made, must yield before the evidence adduced in proof of the fact, which in this case cannot be disputed.

IX. When it is considered that, just before his last visit to Europe, Carlton had made a will, restoring the whole of his property to his mother ; and that it remained unaltered, until his weak and perverted mind had been thoroughly poisoned against her, and nearly up to the time of his death ; when a new will was executed, revoking his former bequests in favor of the very individual, who, it is proved, had caused the new will to be made, and who had had sole charge of Carlton's person for the last two weeks of his life ; such an instrument appears so unreasonable, so unnatural, and so unjust on its very face, and bears upon it such irresistible marks of intrigue, dishonesty and fraud, that it must necessarily be rejected.

X. That the existence of *delusion* is the recognized legal test of insanity, is so well known and acknowledged, that the learned counsel, employed by the contestants of the will, will have no difficulty in establishing it by many well attested cases and decisions, both foreign and native. I shall therefore only quote here, two legal authorities in point.

XI. Setting aside cases of dementia or loss of mind and intellect, the true test of insanity is *mental delusion*. If a person persistently believes supposed facts, which have no real existence except in his fevered imagination, and against all evidence and probability, and conducts himself, however logically, upon the assumption of their existence, he is, so far as they are concerned, under a *morbid delusion* ; and *delusion in that sense is insanity*.—*Abbott's N. Y. Digest*, Vol. VII, 1863.

XII. "What constitutes insanity of mind is a question which has been very much discussed, especially of late years ; and the opinions of learned judges seem at first view, to be conflicting ; but much of the apparent discrepancy may be reconciled by adverting to the nature of the cases respectively in judgment. The degree of unsoundness or imbecility of mind, sufficient to invalidate the acts of the party in some

cases, may not suffice in others. But in regard to insanity, where there is no frenzy or raving madness, *the legal and true character of the disease is delusion*; or as the physicians express it, illusion or hallucination; and the insane *delusion* consists in a belief of facts, which no rational person would believe.” —*Professor Greenleaf’s Law of Evidence*, Vol. I, p. 464.

Numerous other legal authorities to the same point are omitted.

XIII. There is perfect uniformity of opinion in regard to this test of insanity among all the medical authorities. They all agree with our distinguished countryman, Dr. Isaac Ray, who declares that “*delusions, if genuine, can only spring from insanity*”—*Med. Jurisprudence of Insanity*, p. 142. Reference on this point may be made to Mandelej on the “Physiology and Pathology of the Mind,” p. 327; also to Esquirol, Pritchard, Guy and Combe, on Insanity.

“In *monomania* proper, and in *melancholia*,” says Mandelej, “we have a partial ideational insanity, with fixed *delusion* or *delusions* upon one subject or a few subjects, apart from which the patient reasons tolerably correctly. Psychologically speaking, the existence of a delusion indicates fundamental disorder of mental action—*radical insanity*; secondly, the delusion reacts injuriously upon other mental phenomena, interfering secondly with correct ratiocination, or due coördination of functions, and predisposing to convulsive mental phenomena; and thirdly, while it cannot be subordinated to reflection, the individual may at any moment be subordinated to it, and act under its instigation.”

It is unnecessary to quote medical writers to any greater extent, to show that *morbid delusion* is regarded as a true test of insanity. It must be recollected, however, that it is not maintained that such delusion exists in every case of insanity, but, *that where it does exist, there insanity exists*. For instance, I have known of several cases of *mania* or general insanity and *melancholia*, and had charge of them, where there existed no delusion whatever.

XIV. There is another test of insanity, which is regarded by medical men as very important in forming correct conclu-



sions in regard to the existence of mental derangement, and which I have always looked upon as an invaluable guide in forming a correct judgment in these cases ; madness, for example, is not often indicated so much by any particular extravagance of thought or feeling, as *by a well marked change of character, or departure from the ordinary habits of thinking, feeling and acting, without any adequate cause.* I believe it cannot be questioned that the testimony fully discloses such a change in the conduct and character of Carlton Gates during the last year of his life, without any adequate motive or cause, and therefore conclusively establishes the fact of his insanity (see the testimony of Dr. and Mrs. Gates, Mrs. and Miss Nesbit, &c., &c.)

From a life-long and intimate acquaintance with the testator, he having resided a year in my own family, I was able to testify to the naturally amiable and kind disposition of Carlton, especially his strong attachment to his mother, and ardent affection for her ; manifested, when abroad, by sending her numerous costly presents ; his entire change in these and other respects, is amply exhibited in the testimony, and needs no comment.

XV. In forming a judgment in this case in regard to the state of mind of the testator, I also find sufficient evidence of insanity *in the nature of the will itself.* To say nothing of the strange and unnatural nature of the bequests themselves, proving conclusively the change of feeling and disposition already referred to ; the confident expression of Carlton's belief in the fact of his having been *poisoned*, notwithstanding the positive assurance of all his physicians that such was not the fact—the direction to have the *contents* of his stomach analyzed for the detection of poisons, supposed to have been administered *many months before*—he being a medical man ; the appropriation of \$25,000 (at first \$50,000), for the prosecution of certain suspected persons, not named in the will ; the gift of the Yonker's estate to the Corporation of Yonkers, although he knew he had no legal title to it, and was only trustee of the property ; the false statements in regard to his father and mother, and her income, imbecility, &c., &c. When to all this, we add the extraordinary *fear and suspicion of de-*

*tection and discovery*, during the drawing and execution of the will, directing "doors to be carefully closed," and "to see that no one was about," who might possibly hear what was going on ; all this, so characteristic of the cunning and secrecy of the insane, proves, in connection with the other circumstances, the positive insanity of the testator. There was, undoubtedly, reason enough remaining to render him conscious that he was about doing a wrong, perverse, and wicked act, for the insane are often able to distinguish between right and wrong, for as soon as the will was executed, he exhibited no fear or suspicion whatever.

XVI. Nearly all professional writers on insanity, speak of the great irritability of the insane—the perversion of the moral sense, and especially a change in the sentiments and feelings of affection towards their relatives and friends—a complete indifference or positive hostility towards them ; and all this while they themselves are perhaps quite 'unconscious of the existence of any disorder, and then only, where it has come on by slow degrees, and is only partial in its effects—but especially in the form of *monomania*, which afflicted Carlton. When the partial derangement of the intellect becomes organized and systematized, it is remarkable what a desperate degree of tenacity it presents ; we find it in vain to attempt to argue with the patient, or convince him of his errors. He shelters himself behind his convictions with unshaken confidence in their truth ; and, if for a moment he be compelled to admit that his enemies are imaginary, and those from whom he has become alienated his best and dearest friends, in a short time, however, his delusive notions again re-appear and take full possession of his mind.

XVII. I have generally found that in this form of insanity the understanding is tolerably sound on most subjects but those connected with the delusion ; and even where the disorder is more complicated, involving a more extensive train of morbid ideas, though the patient may reason correctly, and talk rationally on many subjects unconnected with those of his delusion, the understanding is more extensively deranged than is generally supposed. In these cases, by close observa-



tion, we can generally detect some perversity of feeling or action altogether foreign to their ordinary character ; and thus it was with Carlton during the last years of his life. At first, and, indeed, for a considerable portion of the time, there was little intellectual derangement, but gradually there was distinctly observed creeping over him a profound perversion of the sentiments and affections, marked at times by real maniacal excitement and acts of violence which have been erroneously attributed to *intoxication*. But if one had conversed with him, during all this time, on subjects not connected with the morbid part of his mental state, probably, little or no difference between him and other persons would have been noticed. He preserved so correct a notion of propriety of conduct and the etiquette and social observances of life, that he usually conducted himself in society as well as most other people. But through the influence of selfish and interested persons, as shewn by the witnesses, whose avaricious designs prompted them to the unholy work, his feelings became alienated from his friends—he imputed to them designs against his welfare, his happiness, and even his life ; he suspected even his parents of a design of *poisoning him* ; and at last, contrary to all evidence and assurances, died in the full belief that he had been poisoned !

XVIII. The evidence, then fully sustains the following conclusions :

1. *The existence of permanent delusion* on several points, especially in regard to the matter of poisoning—by various persons, and at different times.

2. A marked change of feeling, character and conduct ; indeed, an apparent total loss of affection for his parents and friends, and deadly hostility towards them.

3. Paroxysms of monomaniacal excitement, during which his conduct was marked by acts of insane violence, restlessness, boisterous behavior, profanity, sleeplessness, abusive language, &c.

4. Positive hatred of his mother, and a desire to punish her by excluding her from any share in the property given

him by her, and considering her insane against all evidence to the contrary.

5. A persistent belief in the existence of facts which had no real existence except in his disordered imagination, and against all evidence and probability, and *bearing directly on the nature of his will*.

6. As these delusions and false notions had special reference to his parents and relatives, who would naturally have been the objects of his testamentary capacity, a will, made under these circumstances, must necessarily be invalid.

XIX. The above statements and considerations, perhaps, contain all that is really necessary to establish the want of testamentary capacity in the testator; there are some considerations, however, connected with the subject which may properly find expression in this place.

XX. Although it is claimed by most writers on mental diseases that the mind of the *monomaniac* is sound, apart from his delusions, I hold that the diseased idea is a part of the mind; and that the mind, therefore, is no more sound than the body is sound, when a man has a serious disease of some vital organ—that the exquisitely delicate and complex mechanism of mental action—the brain, is radically deranged; else, the morbid idea could not have been engendered and exist. The mind is not unsound upon one point only; but an unsound mind expresses itself in a particular morbid action. Moreover, as in the case of Carlton, when the delusion is once produced, there is no power of drawing a sanitary cordon around it, and thus, by putting it in quarantine, as it were, preserving all other mental processes from infection; on the contrary, the morbid centre reacts injuriously on the neighboring parts, and there is no guarantee that at any moment the most desperate consequences may not ensue. In other words, speaking psychologically, I regard the existence of a *delusion as indicating fundamental disorder of mental action—radical insanity*; and that, *secondly*, the delusion reacts injuriously upon other mental phenomena, interfering, more or less, with correct ratiocination, and predisposing to acts of

violence; and, *thirdly*, while it cannot be fully subordinated to reflection and consciousness, the individual may at any time be subordinated to it, and act under its instigation. Where delusion then exists, however partial the mental derangement may appear, the mind is actually *unsound*, not to be relied on; *and not to be held responsible*; disease is going on in it, and no one can tell when or where it will end.

XXI. Carlton Gates inherited a weak bodily frame, and an extremely active, sensitive, nervous temperament; in fact, it may be truly stated that he inherited what has been called the *insane temperament*, characterized by singularities or eccentricities of thought, feeling and action. He was impressionable to subtle and usually unrecognized influences. There was in his constitution an innate tendency to isolation—to act independently, as an element in the social system; and there was evidently a personal gratification in the indulgence of such a disposition which seemed to mark great selfishness and vanity. This peculiarity of temperament was allied in him, with considerable native talent and genius, qualities which we often find closely allied to madness; in his estimation he was right, all the rest of the world was wrong; he was forever in “a minority of one.” This fatal heritage was painted upon his physiognomy, on his external form, his ideas, passions, habits and inclinations. There was little power of vital resistance in his system, and his personal habits were not conservative of vital force. *Pari passu*, with the progress of corporeal disease, we find in him as might almost have been anticipated, the *feeling or affective* life greatly perverted, his whole habit and manner of feeling was changed, his passions and moral affections became perverted and deranged more than one year before his decease; *ideational or intellectual* derangement succeeded, and, probably, had he lived, would have soon predominated. But, as in numerous other similar cases, the *affective disorder was the fundamental fact* preceding, and then accompanying intellectual disorder; and both would have been equally prominent had he long survived. But during his life *moral alienation* was the predominant form of his mental derangement. He had labored for many months previous to his death under a tubercular state of the lungs, seriously im-

peding the oxygenation and healthy renewal of the blood, and necessarily aggravating the mental disorder.

XXII. It cannot be denied, that in the presence of strangers, Carlton, for the most part, manifested no special signs of insanity; but then it is to be recollected that *the insane have great power of self-control*; they can frequently conceal all indications of mental derangement, where it is policy to do so; and so notorious is this the fact, that insane individuals, and even inmates of our lunatic asylums, are often considered sane by others and unjustly confined. To feign sanity on the part of the insane is far easier than the opposite—to feign insanity on the part of the sane. The latter requires what is not often possessed, namely, an accurate acquaintance with the characteristic features of the various kinds of mental derangement. Such persons, accordingly, are apt to overact their part and seldom escape detection. It is generally supposed that persons actually mad, must show it on all occasions, and in their whole conduct. But this is far from being the case where there is any motive to sane conduct. Thus, in nearly all our insane asylums religious chapel-services are regularly observed on Sundays, at least, and in many of them daily prayers are held night and morning, at which a large proportion of the patients are present, and whose conduct is as quiet and orderly as is generally observed in religious assemblies among sane people. Violent conduct, growing out of ungovernable impulse, is rare among the insane. Carlton Gates is a good example to show to what extent a mad man may have control of his actions even where a powerful impulse prompted him to acts of extreme and murderous violence; and so decorous was his behavior in the presence of his physicians, and the subscribing witnesses to his will, that they were even led to doubt his insanity. But when we consider that they had no suitable opportunity and used no proper tests by which to judge of his mental condition, it is by no means remarkable that they failed to discover his actual state; and their opinion should have, therefore, very little, if any weight. It is somewhat singular, however, that a few days before his decease, they all thought him incapable of making a valid will.



XXIII. As already remarked, mental derangement is a matter of *degree*, and as no two people are exactly alike in mental character and development, so no two cases of mental degeneration are exactly alike. As the brain presents every variety of individual functions in health, so also it presents every variety of morbid function in disease; consequently, two cases of insanity may resemble one another in the general features of exaltation or depression, or in the character of the delusion (as poisoning for example), and yet each have its own special features. *In fact, insanity is no fixed morbid entity*; but every case of it is an example of individual degeneration, representing individual mental life under other conditions than those regarded as normal or typical. The features of insanity in any given case, must depend very much on the degree of development the mind of the individual has reached; the more cultivated the mind, the more various and complex the symptoms of its derangement; moral insanity, so called, does not exist among savages.

XXIV. This attempt to conceal the existence of insanity, on the part of an individual, implies of course a self-consciousness that he is a victim to it.

As we often see in the incipient stage of intoxication—a person will make a determined effort to comport himself like a sober man, being to some extent, conscious of the degrading and brutalized condition to which he is reduced; he thus endeavors to conceal from observation his actual state by making a great effort to control his ideas, talk rationally, and walk steadily; and although much intoxicated, he is possibly able by a resolute and determined effort of the will, for a time to play well his part, and disarm all suspicions as to his actual condition of inebriation. This is very analogous to the state of the mind in incipient insanity. The patient is tolerably aware of his condition—he battles courageously and often successfully, to disarm all suspicions as to his mental unsoundness—to banish all unnatural and unhealthy thought and mental impressions; but the morbid condition of the brain proves too much for him—too strong for his will to control; and first one weak point shows itself and then another, till finally he becomes, as Carlton Gates did, the victim of morbid delusion—a mere wreck of what he once was!

XXV. It is now nearly thirty years since the laws of England and the decisions of the Courts, both in that country and the United States, have recognized both *partial and general intellectual insanity*, as well as *partial and total moral insanity*, as a ground, both of exclusion of convictions for crime, and as incapacitating for the performance of civil contracts ; especially for making a valid will.

Besides other cases, where *partial moral insanity*, assuming the form of monomania has served as a successful ground of defence for an alleged criminal act, I may mention that of Kleim, tried in the City of New York in 1845, before Judge Edmonds, for homicide. In charging the jury in this case, Judge Edmonds remarked as follows :

*“ It must be borne in mind that the moral as well as the intellectual faculties may be so disordered by disease as to deprive the mind of its controlling power.”*

From that time, at least, to the present, *moral insanity* has become firmly established as a part of the jurisprudence of this state.

It will, doubtless, yet become an admitted principle in jurisprudence, that sometimes the character of the *criminal act* itself will furnish sufficient evidence of its having been prompted by insanity, especially where the motive defies all penetration or suspicion, and the mind itself has previously evinced no positive signs of impairment, and the most skilful psychological expert will detect no other proofs of its existence, after the closest investigation of the bodily and mental condition of the party ; as where a mother murders her children, &c., &c.

And so, also, the nature of a *civil act, as a will*, depriving a parent, brother, sister, or other relative of an inheritance, which would naturally, rightfully and legally fall to them, and which perhaps, as in the present instance, was bestowed on the party by them, and toward whom no feeling but that of affectionate attachment had existed up to a late period, and then had become changed without any adequate cause or motive ; I say such an unnatural and causeless act, will of itself prove the mental unsoundness of the party, and the will or other act will be declared, as a matter of course, invalid. This would be a much safer principle to act upon in jurispru-



dence than an abstract knowledge of right and wrong ; and while the results would be more satisfactory, an immense amount of useless litigation and expense would be saved.

XXVI. The time will probably come when insanity will be divided into two grand classes, viz : *insanity without positive delusion, and insanity with delusion* ; or *affective and ideational* insanity ; the present artificial classification of the disease, is certainly not in conformity with nature ; and the one suggested is really more scientific than one which, by postulating an exactness that does not exist, is a positive hindrance to an advance in psychological knowledge. Until this time arrives, medical experts will have to recognize forms of mental derangement where there are no delusions. The deviation from healthy mental life are innumerable, and the divine mind can only be pronounced perfectly sound ; but let us not make division in knowledge where there are none in nature, but regard all present classifications as only provisional ; some writers, for example, would make four kinds of insanity, with reference to the perceptions, the emotions, the intellect and the will, which it is stated, may be disordered aggregately or separately ; but nature knows no such classification ; these forms of insanity run into each other, or co-exist in the same case ; the intellect, for example, cannot be deranged without affecting the will ; *delusion*, the true test of insanity, may exist in all forms of it, and the same is true, of emotional disturbance, &c.

XXVII. I have already mentioned the strong predisposition to insanity on the part of Carlton, and some of the causes which probably precipitated it. These causes were such as usually undermine the constitution, and produce bodily as well as mental disease. During his residence of many years abroad, it is believed he made a rather free and probably habitual use of wine, although he was not fond of distilled liquors ; but even this mild stimulant exerted, no doubt, a very unfavorable influence upon his nervous irrepresible temperament, and it constituted almost the only alcoholic liquor he drank after his return from Europe, in November, 1868 ; on the few occasions on which he ventured

on a stronger drink, he exhibited symptoms of slight intoxication ; to which, the attempt has been made by the counsel employed to sustain the will, to attribute the hallucinations, delusions, and other symptoms of insanity manifested by the testator. This attempt, however, must signally fail, inasmuch as these delusions, &c., were *permanent* during the whole of the last year ; whereas he seldom drank intoxicating or distilled liquors, and then generally far within the limits of decided inebriation. Yet it is a fact, well known to those who have investigated disorders of the mind, that positive insanity is not unfrequently produced by alcoholic drinks ; and these are often, it is to be feared, the occasions of great injustice being done by our legal tribunals. *Statistics prove that intemperance is the most frequent cause of insanity in the United States.*

XXVIII. Persons who are strongly predisposed to mental derangement, who possess the insane temperament, who labor under severe constitutional disease or chronic affections, where the blood is contaminated, or who are easily affected by small quantities of liquor, are often liable to become actually insane after taking such drinks ; during which they are really as irresponsible for their acts as those laboring under the most decided insanity produced by any other cause. In this condition, it is true, hallucinations, illusions and delusions may exist, and the sufferer may perpetrate crimes, of which afterwards he has no recollection, and of the nature of which, at the time, he is entirely unconscious. We meet occasionally with cases where the individual imagines he sees strange sights and hears strange sounds, as in *delirium tremens*, and commits strange and violent acts under such delusive impressions. The courts have repeatedly decided that such persons cannot be held responsible for civil or criminal deeds committed during the existence of such hallucinations.

XXIX. It has long been a well-known fact that a vitiated state of the blood exercises a marked effect upon the functions of the brain ; and the frequently observed effects of *alcohol* upon this organ, is the best and simplest illustration

of this statement. It is doubtless true that the temporary derangement produced by alcohol is very similar in many cases to the permanent insanity produced by any cause whatever. First, we usually observe an agreeable excitement—a lively flow of ideas, and a general activity of mind, as in the earlier stages of mania; then follow incoherence of thought and speech, passional excitement, the nature of which depends much on the temperament of the individual; then a stage of depression, followed, perhaps, by convulsions, paralysis, dementia, stupor, and even death. Just as we see in insanity, alcohol like the other causes of derangement, affects different people according to their temperament—making a furious maniac of one, a drivelling melancholic of a second, and a third it renders stupid, dull and heavy; the constitution rather than the nature of the cause determines the form which the madness takes.

XXX. Another interesting fact may be noticed in this connection, and that is, that besides *alcohol*, many other narcotic poisons may enter the blood and derange the functions of the brain, such as *opium*, *belladonna*, *conium*, *stramonium*, *Indian hemp*, *Calabar bean*, &c., producing more or less delirium, hallucinations, illusions, and even insanity, where their use is long persisted in, or they are taken in considerable quantity. But the blood is not only thus poisoned by substances taken into the stomach, but also by the formation in the tissues, and retention in the blood, of matters generated in the system as *urea* and *uric acid* in Bright's disease of the kidneys, so called. If not eliminated from the body these agents produce *uremic poisoning* attended with delirium, convulsions and death. Hallucinations and false perceptions are produced by all these substances.

XXXI. I have chiefly attributed the monomaniacal insanity of Carlton, to a peculiar constitution and temperament, in which there manifestly existed a certain inherent aptitude or tendency to morbid, mental and corporeal degeneracy, and lacking that reserve power necessary to the trying occasions—"the wear and tear" of life. Insanity and pythisis were its natural and legitimate fruits. Considerable predisposing

influence in this case has been attributed to the circumstances of his education and to faulty moral training ; but while it is freely admitted that an injudicious bringing up may aggravate an inherent latent mischief or defect, yet, where the germs of future disease, as in this case, are so deeply implanted in the very constitution itself, it must be an exceptionally excellent training, both physical and mental, that can prevent the usual and natural results ; no one will pretend to say that the testator inherited any morbid taint of blood or vice of nature from either parent, except that which is common to all the race ; neither was there ever set before him the evil of a bad parental example ; but the morbid *nervous* element in his constitution accidentally predominated, subordinating to it all the other elements of his nature, and wrought the effect of developing an unnatural precocity strongly predisposing to disease. There was no parental harshness or neglect in his treatment ; but, on the contrary, the utmost kindness, indulgence and affection. This indulgence, it is possible, may have been carried to that extent as to somewhat interfere with or weaken the necessary lessons of renunciation and self-control : but this is so common a defect in the education and training of the youth of the present age that it calls for no special condemnation in this instance. " Let him that is without fault cast the first stone." So far as moral causes are concerned, much of the increasing insanity of the times may be traced to the habitual encouragement on the part of parents of self-feeling, vanity, and the egotistic element in the child, which go far to create a morbid predisposition and irritable sensitiveness which disqualify from bearing up successfully against the calamities and adverse circumstances of life. The prevention of insanity, will, doubtless be found in all those circumstances that go to develop strong characters—strong, mentally and physically—intellectually, morally and corporeally.

XXXII. Edmonds, in his "*Select Cases*" (Vol. 1, p. 35), has defined a *sane man* as one,

1. Whose senses bear truthful evidence.
2. Whose understanding is capable of receiving that evidence.



3. Whose reason can draw proper conclusions from the truthful evidence thus received.
4. Whose will can guide the thought thus obtained.
5. Whose moral sense can tell the right and wrong growing out of that thought.
6. And whose act can, at his own pleasure, be in conformity with the action of all these qualities—"all these unite to constitute *sanity*" (it is said); "the absence of any one of them makes insanity."

XXXIII. If the above statements be admitted as true, then Carlton Gates was evidently *not sane*; in other words, he was insane; for 1. "His senses did not bear truthful evidence," nor "was his understanding capable of receiving that evidence." For example, his mother invariably had treated him with the utmost forbearance, kindness and affection; all her acts he interpreted as manifestations of neglect, abuse, and enmity. He was not capable of truly interpreting her conduct, as he always had been before. 2. His reason, such as it was, did not draw proper conclusions from the truthful evidence exhibited to him. His conclusions were all false, unreasonable, and unfounded, and therefore justify the inference that he was destitute of sound reason and understanding. 3. It is also manifest that his "moral sense" did not distinguish the "right and wrong" of his thoughts, or of the testamentary acts growing out of them, and therefore that he possessed no real freedom of the will; in other words, was insane.

XXXIV. I repeat, the symptoms and phenomena manifested in the case of Carlton, so far as known and testified to, justify the conclusion that there was present physical disease of the brain, which insanity always presupposes, and to that extent as to prevent perfect freedom of thought and action.

XXXV. It is very possible that physiology may not, for many years to come, furnish the complete data of a positive mental science; but it is not too much to say that it has already advanced sufficiently far as to overthrow the data of

a false psychology, resting solely on self-consciousness. That the *brain* is the organ or instrument of the mind is now generally conceded; and that with each display of mental power, there are correlative changes in the material substratum—the brain—that every phenomenon of mind is the result, as manifest energy, of some change, molecular, chemical, or vital, in the nervous elements of this organ, is also admitted. We need not here enter into a consideration of the real nature of mind; it is enough to know that it is most certainly dependent for its every manifestation on the brain and nervous system, and scientific research is daily disclosing more clearly the relations between it and its organ. Mental power is but an organized result, matured by insensible degrees in the course of life, and as much dependent on the nervous structure as the function of the liver is on the hepatic structure. So well established is this proposition that physiologists no longer seek for proof that the brain is the organ of the mind, but rather to investigate the conditions of its healthy activity, and the pathological evidence of the disease in the various forms of mental derangement or impairment. Those pathologists who have devoted the most attention to this department of science, tell us that they have not failed to discover invariably pathological changes in the brain where *intellectual disorder* has existed in madness, and even in that form of insanity called *melancholia*, and also in extreme old age. Whatever may be said by the pure psychological school of philosophers, the world is indebted to physicians and physiologists for the only true philosophy of mind, namely: that instead of being a simply entity—an independent source of power and self-sufficient cause of causes—it is dependent on a material organ for all its manifestations.

XXXVI. If this be so, it is very evident that when physicians, from disordered mental manifestations, infer the existence of cerebral disease, it is nothing more nor less than a pure induction from well-known established facts and principles. It is not a *deductive* process of reasoning at all as assumed by some philosophers, but one of simple *induction*; and having established the fact of the existence of cerebral disease, they may surely go on to point out its consequences,



as revealed and illustrated by the pathological history of such cases. The process does not vary at all from that pursued in regard to any other important organ of the body—the heart, the lungs, liver or kidneys—persistent disordered function, points to a physical *lesion*, and this, in turn, demonstrates what was the nature and cause of the functional derangement. This has, indeed, been called “reasoning in a circle;” but it arises from the very nature of the case, and must be so, if there is any reasoning whatever. It is true that the phenomena, as regards mental soundness and capacity, are *objective* to the physiologist as well as others; to be determined by observation and the usual mode of inquiry; but the physiologist and pathologist are alone qualified to draw any correct conclusion whatever in regard to the nature or extent of cerebral disease. It is true that “physicians are not necessarily *metaphysicians*,” if they were *merely such*, they would be no better judges in respect to questions of sanity or insanity, cerebral health, or cerebral disease, than any other persons; in short, it would be quite absurd to call them in as *experts* in any case involving these questions. Any other opinions would be equally as valuable and reliable. The pure *psychologist*, who relies entirely on the psychological method of self-consciousness in investigating mental phenomena; who regards the mind as an *entity*, acting independently of a material organism, and aims to discover the laws of the human mind by contemplating it in itself, must confess that, if his theory be admitted in insanity, *the mind itself is diseased*, and if diseased it may perish like the body. To such a conclusion must the psychologist inevitably arrive, who rejects the received doctrine of the dependence of mind on a material structure, for its earthly manifestations. When these psychologists overlook the physical structure and functions of the body in their study of the human mind, they remind us of the story of the philosopher, who, while he gazed upon the stars, fell into the water; for if he had looked down he might have seen the stars in the water, but looking aloft he could not see the water in the stars.—*Lord Bacon De Augment Scient.*, B. 2.

#### JUDICIAL DECISIONS IN SIMILAR OR ANALOGOUS CASES.

XXXVII. As the legal bearings of the case belong more

especially to the learned and able counsel employed by the contestants of the will, it will not be necessary for me to enter upon them to any great extent. During the last quarter of a century, there have been several decisions in the English and American Courts, both in criminal and civil cases, especially in such as relate to wills, based on the now recognized principle that *delusion* is a true test of insanity; and these decisions have now the force and authority of Common Law.

XXXVIII. "Where there is no direct evidence of the deceased's state of mind at the time, of the act done, recourse must be had to the usual mode of ascertaining it in such cases—*which is looking at the act itself*. The agent is to be inferred rational, or the contrary, in such cases from the character broadly taken of his act. *Testamentary dispositions that conflict with the natural distributions of property and the known and expressed intentions of the testator, are to be held as sufficient evidence of unsound mind.*" (Carlton had made a will already, giving all his property to his mother.)—*Sir John Nichol in Addon's Ecclesiastical Reports*, 74.

"I cannot but think that a mental disorder operating on partial subjects, should with regard to those subjects be attended with the same effects as a total deprivation of reason."—*Pothier on Obligations, Appendix* 24.

"When a man suffers under a partial derangement of intellect, if the act done bears a strict and evident reference to the existing mental disorder, we cannot see why the law should not interpose a limited protection; and still less, why courts of equity should deny their aid in such cases."—*Paris & Ponblanque Med. Jurisprudence*, p. 30.

## ENGLISH CASES.

### CASE I.

XXXIX. In the case of *Dew v. Clark* (*Addon's Ecclesiastical Reports*, 79), the existence of monomania is recognized on the ground of *delusion*, and its operation on the understanding, in controlling the civil acts of an individual. The testator, Scott, had conceived a violent antipathy against his daughter, without any real or adequate cause, which was

declared to be solely the offspring of delusion in a disordered mind; and his will, which cut her off from all participation in his estate, was set aside on that ground alone.

## CASE II.

XI. See case of *White v. Wilson* (13 *Vesey's Reports*, 88). Here the testator, in a state of *delirium*, in fever, received a draught from the hands of his brother, and conceived the idea that it was intended to destroy him; which belief continued after his recovery, and became so controlling, that, in consequence, he disinherited his brother in his will; a verdict was obtained in the Common Pleas against the will, but resulted afterwards in a compromise. "No one," says Ray, commenting on this case, "would be hardy enough to affirm that Greenwood's mind was perfectly rational and sound, and as his insanity displayed itself on all topics relating to his brother, every act involving his brother's interests to go no farther, ought consequently to have been invalidated." — *Med. Jurisprudence of Insanity*, p. 239.

(Esquirol has related a case of a very similar kind; where a person conceived an antipathy against his brothers, sisters and other relations, who, he believed, were seeking to destroy him; under the influence of this delusion, he made testamentary dispositions, and Esquirol being consulted respecting their validity, gave it as his opinion, that the testator was laboring under insanity. The will was consequently set aside. — *Annales d'Hygiène Publique*, 111, p. 370.)

## CASE III.

XLI. An elderly lady was excessively penurious and eccentric, very irritable and quarrelsome. She conceived the insane delusion that her brother had joined the Catholics, to whom she felt a strong aversion, and in consequence, disinherited him. The will was consequently set aside (*Wharton and Stille's American Medical Jurisprudence*, p. 20). In this case Lord Brougham denied the existence of *monomania* or partial insanity, and maintained that the mind, being "one and indivisible, and if unsound on one subject, provided that unsoundness is at all times existing on that subject, it is

quite erroneous to suppose such a mind really sound on other subjects ; it is only sound in appearance"—(*Waring v. Waring*, 6 *Moore P. C. Cases*, 249). "It may therefore be considered as the present law of England," says Wharton, p. 23, "that a person partially insane is incompetent, so far as the making of wills or contracts is concerned."

XLII. It is quite unnecessary to quote English decisions in criminal cases. The principle, however, which has been recognized in all the recent cases is that—

1. "Any species of insane delusion exempts from punishment the perpetrator of an act committed under its influence."
2. "The belief unfounded in fact, that a party is in immediate danger of his life from another, may be such a delusion ; or, the belief that taking the life of another is the appropriate remedy for a minor though imagined evil, may be also an insane delusion."
3. "That, therefore, homicide, under such a delusion, is not liable to punishment."\*

### AMERICAN DECISIONS.

XLIII. The various decisions of American Courts are well summed up as follows, by Judge Sergeant of Philadelphia, before the Supreme Court of Pennsylvania, in the case of *Boyd v. Eby* (8 *W.*, 70), 1839.

"The only question in such a case is, whether the *testator was under a delusion, though there be but a partial insanity ; yet if it be in relation to the act in question, it is well settled it will invalidate contracts generally, and defeat a will which is the direct offspring of this partial insanity.*"

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\* By the term "punishment," as here used, is to be understood such punishment as is inflicted on persons of sound mind. It is essential, however, to the policy of the present more humane mode of treatment of the insane, that in all cases where a party is acquitted *on ground of insanity*, strict confinement should be directed, in such a way as will exempt the community from any probable recurrence of such delirious outrages.

XLIV. Judge KING, also of Philadelphia, in the case of *Leech v. Leech*, 11 *Pa. L. J.*, 179, then closing a judicial career of twenty-seven years duration, remarked as follows :

“A monomaniacal delusion, inveterately entertained by a testator against those who would otherwise have been the natural objects of his bounty, and shown to be the reason which has excluded them from it, and to have had no other existence, except in the distempered imagination of the testator, would invalidate a will made under such influence. And for the very plain reason that a will made under the suggestion of such an insane delusion, is not what the law requires a will to be, the product of a mind capable of reasoning rightly ; for although the law recognizes the difference between general and partial insanity, yet if the will has been made, under the influence of such partial insanity, and as the product of it, it is as invalid as if made under the effects of an insanity never so general.”

XLV. I would refer also to the case of *The American Seamen's Friend Society and others, Appellants, v. Herter, Hopper, and others, Respondents* (*Tiffany N. Y. Reports, Appeals, vol. 6, p. 619*).

The opinion of the Court of Appeals in this case, was rendered by Judge Denio (December, 1865), affirming the following principles, and the decree of the Surrogate and the Supreme Court, rejecting the will :

1. The true test of insanity affecting testamentary capacity, &c., aside from cases of dementia, or loss of mind and intellect, is *mental delusion*.
2. A person, persistently believing supposed facts, which have no real existence, against all evidence and probability, and conducting himself upon the assumption of their existence, is, so far as such facts are concerned, under an *insane delusion*.
3. If a testator at the time of making his will is laboring under any such delusion in respect to those who would naturally have been the objects of his testamentary bounty, and the Court can see that the dispositive pro-



visions were or might have been caused or affected by such delusion, such instrument is not to be deemed to be his will.

In this case, the testator believed that all his relatives were set against him, and had conspired together, and were endeavoring to kill him by the administering of chloroform, or some other means. His physician testified that he considered the deceased a *monomaniac* in respect to his family and relations.

XLVI. The same principles were affirmed by a decision of the Supreme Court of the State of New York, in the case of *Stanton and wife, Appellants, v. Wetherwax and others, Respondents* (April, 1853—*Barbours' Supreme Court Reports*, vol. 16, p. 259).

Judge GRIDLEY, after quoting as authority, Sir John Nichol in the celebrated case of *Dew v. Clarke* (3 *Ad.* 79; *English Ecclesiastical Report*, vol. 1, p. 441). See above case already referred to, proceeds to say that, "the testator was *partially* insane, and something more than a *monomaniac*, for he was under a strong *delusion*. On more than one subject a *monomaniac* may make a valid will, where the provisions of the will are entirely unconnected with, and of course, uninfluenced by the particular *delusion*. But where there is good reason to believe the will is the offspring of that particular *delusion* which has seized his mind, and controls its operation, the rule is otherwise. A will thus made, under the influence of a powerful *delusion*, which has not only impaired but perverted his judgment and understanding in relation to subjects connected with the provisions of the will, so as to exercise a controlling influence in the disposition of his property, is not the will of a testator of sound mind (p. 262). His mind is unsound *quoad* the very subject on which he is called to exercise its powers in making the will."

The decisions of the Surrogate of Herkimer County was reversed, and the will declared null and void.

XLVII. The most recent case bearing on the question of *monomania* as affecting testamentary capacity, is that lately



brought before the Surrogate of Orange County, N. Y., in the matter of proving the last will and testament of John C. Calhoun. I need not give the particulars of this interesting case, as they are, doubtless, well known to this Court; in many respects they bear a striking resemblance to those of the present case, but the proof of delusion and insanity in the testator is far less strong. It will suffice for my present purpose if I quote briefly from the opinion of his Honor GILBERT O. HULSE, Esq., Surrogate; an opinion equally honorable both to his head and heart.

“I will first consider the question whether the testator was so far unsound in mind, that the will is invalid for that reason. He was not an idiot or a lunatic, but it is said that he was afflicted with a form of insanity known as *monomania*. Monomaniacs are those persons who are insane upon some one or more subjects, whether it relate to one or more persons or things, and are apparently sane upon all others. Such persons are competent to make a will, unless the subject of their infirmity is involved in the making of it. The belief in the existence of mere illusions or hallucinations, creations purely of the imagination, such as no sane man would believe in, is unequivocal evidence of insanity. The persistent belief of a person in supposed facts, which really have no existence, except in his imagination, and who acts on such belief, proves him, so far as such acts are concerned, to be acting under a morbid delusion. Such a delusion is partial insanity. When seen it appears that the will is the direct offspring of such partial insanity, it must be regarded as invalid, though the general capacity of the testator is unimpaired.”—*Newburgh Journal*.

The will was not admitted to probate; partly on the ground of *monomania*, *undue influence*, and partly on the fact that the testator entirely disinherited all his relatives, and gave all his property to a Dr. Jones, with whom he had been acquainted only a few months.

XLVIII. George Moore of Kentucky, made his will in April, 1822, and shortly afterward died. The validity of the will was disputed on the ground of unsoundness of mind in the testator. It was shown that about twenty-four years before his death he had had a dangerous fever, during which

he contracted a strong hatred against his brothers, whom he imagined intended to injure or destroy him, although they had attended him through his illness, and never gave any cause for his suspicion. This antipathy continued until the day of his death, with a single exception, when he made a will in their favor, which he subsequently cancelled. The Court in its decision, said, "that he cannot be accounted a free agent in making his will, so far as his relatives are concerned, although free as to the rest of the world. But however free he may have been as to other objects the conclusion is irresistible that this peculiar defect of intellect did influence his acts in making his will, and for this cause it ought not to be sustained."—*Little's Reports*, 371.

XLIX. The case of Madame Jumel, decided by the Supreme Court of New York, in 1866, is another case in point. This well-known lady died several years since, leaving the bulk of a large estate to various Ecclesiastical and charitable institutions, and disinheriting her relatives. This case was brought to trial before the Supreme Court of New York City (1866). It was shown in evidence that the testatrix was very old, and that she was subject to delusions of various kinds; among others, she conceived the idea that several of her relatives were trying to poison her, and she refused to take food which they gave her.

The Court charged that if the testatrix was of unsound mind on account of these delusions, she was not capable of making a will.

The jury found that she was of unsound mind when she made the will.—*Supreme Court Reports*, 1866.

L. James C. Johnston, of North Carolina, died in 1865, excluding his natural heirs, by his will, from any participation in his estate, and the whole of his property was devised to persons in no way connected with him, and with whom he had never been intimate. The testator had labored under *monomania* for several years, having occasional paroxysms of delirium, but possessing a good degree of self-control; without any apparent cause, he conceived a violent prejudice against his son and other relatives, towards whom he mani-

fested the utmost hatred. The will was justly considered unnatural and motiveless, the result of delusion and *monomania*, and was accordingly declared null and void. "Insanity in its Medico Legal Relations." By WILLIAM A. HAMMOND, M. D. N. Y., 1866. Also, "Opinion relating to the Testamentary Capacity of James C. Johnson, of North Carolina." By the same. 1866.

LI. The case of *Morrison vs. Smith, Bradford's Surrogate Reports*, vol. 3, p. 209, presents some points worthy of notice in this connection.

The decedent, a short time after the execution of his will, was committed to the lunatic asylum, after an examination by a physician, who found him insane, and laboring under a delusion that some of his children were spurious. He was exceedingly cautious on the subject of the delusion, and careful not to betray it to the examining physician until the latter succeeded in gaining his confidence. He had been melancholy for a length of time, and his depression of spirits had been greatly increased by the recent decease of his wife. Within a few days of the date of the execution of the will, he had become suddenly violent at night to such an extent as to require physical restraint; and about the same time he gave indications of the delusion in respect to his children. *Held*, that a will made very near the time of these developments, unequal in its provisions, and favoring the only two members of the family privy to it, one of whom was present when the instructions were given when the draft was submitted, and when the instrument was signed, and both of them had been the decedent's agents, and had possession of his estate, needed more than the formal proof of the *factum*; and the evidence failing to show affirmatively the soundness of the decedent's mind at the time of the transaction, probate was denied.

The will in question was executed on the 4th or 5th January, 1853; on the 21st of same month he was committed to the lunatic asylum, at Bloomingdale. Dr. Brown testified that he was laboring under that chronic form of insanity called *melancholia*—a form of disease which does not ordinarily supervene with a violent paroxysm; that his present state of

mind (21st January), had existed about five months; that he disavowed the identity of his children, and that he was supposed to indulge suicidal propensities. And yet Dr. Gray and Dr. Kelley, his physicians, who were intimately acquainted with him, the Rev. Mr. Evans, &c., testified to his sanity. Dr. Gray, in a certificate dated January 7, 1853, and Dr. Kelley, in a certificate dated January 6, 1853. The latter states that "the said John Morrison is of sound mind and intellect, and in full possession of all the faculties of reason and intelligence." And Dr. Gray states that "said Morrison is in a sound state of mind and capable of managing his affairs." The Rev. B. Evans visited him on the 4th, 9th and 16th of January, and discovered no signs of "irrationality."

The Surrogate, Mr. Bradford, very justly remarks in connection with this case, that "there are cases on record where the subject has for a length of time defied every effort to make him convict himself of irrationality, yet, when the key was discovered, instantaneously disclosed his delusion. So, here the decedent's cautiousness and craftiness were more than a match for the physician's experience and shrewdness, until the secret spring was found and touched, and then he laid bare his mind." As to the witnesses Drs. Gray and Kelley, and Rev. Mr. Evans, adduced to prove the rationality of the decedent, *their attention was not directed to any special examination of the case.* How little reliance can be placed upon casual observation is illustrated by the fact, that even after the 9th of January, and when the decedent was undoubtedly insane, *the Rev. Mr. Evans spent some time in conversation with him, without discovering any symptoms of derangement* (p. 113, 225).

LII. In the case of Hopper already referred to above, Judge Brown, for twenty years an eminent Justice of our Supreme Court remarked before the Court of Appeals, (p. 690).

"If a careful examination of the evidence taken before the Surrogate results in showing that Charles Hopper, upon some subjects, and indeed generally, had mind and memory, sense sufficient to know and comprehend ordinary transactions, still it will also result that upon the subject of his wife and his other relations, those who would naturally have been the



objects of his care and bounty, and who would have succeeded to his estate, he was a maniac, given to the grossest insane delusions. The instrument proposed cannot be regarded as his will, because upon such a subject he was incapable of expressing or forming an intelligent will. It is the result, not of a clear unclouded intellect, having an intelligent comprehension of the relation of the things with which it has to deal, but the result of a delusion which controls the judgment and misleads the understanding in relation to the subjects upon which it is acting. A monomaniac may make a valid will when its provisions have no connection with the particular delusion, and there is no reason to think they are influenced by it. But when, as in this case, the delusion relates to the persons, who would, in the natural and usual course of things, become the objects of the maker's care, solicitude and bounty, and especially, upon whom the law would cast the inheritance of his property, the instrument must be regarded as invalid to pass the estate, because it does not express the will of a testator of a sound and disposing mind."

LIII. These cases could be multiplied, if there was any necessity for so doing. In regard to *criminal cases*, where insanity, characterized by *delusion* has existed, Chief Justice Shaw of Massachusetts, has clearly laid down the law in the case of Rogers, who was tried for murdering his keeper in the State Prison.—*Am. Law, Jour. No. 3, 128, (N. S.)*

"The conduct may be in many respect regular, the mind acute, and the conduct apparently governed by rules of propriety, and, at the same time, there may be *insane delusion*, by which the mind is perverted. The most common of these cases is that of *monomania*, when the mind broods over one idea, and can not be reasoned out of it. This may operate as the excuse for a criminal act in one or two modes; either the *delusion* is such that the person under its influence has a real and firm belief of some fact, not true in itself, but which if it were true, would excuse his act; as where the belief is, that the party killed had an immediate design upon his life, and under that belief, the insane man killed him in supposed self-defence."

And "secondly, where some violent outburst occurs, which taken in connection with former acts indicates that the will was overborne. The questions for them to decide were whether such a delusion existed in the mind of the accused; whether he did not act under an insane but firm belief that the deceased was going to shut him up with some dangerous design, or not for a slight punishment; whether the facts indicate that the deed was done at a moment when the delusion was uncontrollable."

The same principles were laid down in the case of Abbott, by the Superior Court of Connecticut, indicted for killing his wife in 1841; also by the Court on the trial of Mercer for the murder of Aeberton, in New Jersey, April, 1843. (In some of the recent trials of murder, some new principles of Medical Jurisprudence have been laid down, if not by Courts, by lawyers and juries; as in the case of Coles, who was declared to have been sane the moment before the act was committed, as well as the moment afterwards; but that he was utterly insane, when he committed the murderous act, and on this principle he was acquitted.)





